

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
DENIAL OF LICENSING
AUTHORITY OF:

HEARING NO. 14-HR-

0454

MATTHEW CORBIN

ORDER

I, Andrew Boron, Director of the Illinois Department of Insurance, hereby certify that I have read the Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Fred Moore, appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter and that I have carefully considered the Record of the Hearing and the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer attached hereto and made a part hereof.

I, Andrew Boron, Director of the Illinois Department of Insurance, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV and Article XXXI of the Illinois Insurance Code (215 ILCS 5/401 *et seq.* and 215 ILCS 5/500-5 *et seq.*) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 *et seq.*).

This Order is a Final Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1 *et seq.*). Parties to the proceeding may petition the Director of Insurance for a Rehearing or to Reopen the Hearing pursuant to 50 Ill. Adm. Code 2402.280. Appeal of this Order is governed by the Illinois Administrative Review Law (735 ILCS 5/3-101 *et seq.*).

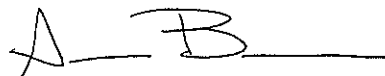
NOW IT IS THEREFORE ORDERED THAT:

- 1) The Letter of Denial previously issued in this matter denying the Respondent's application for a license is superseded by this Order, and the Illinois Department of Insurance, upon being satisfied that the Respondent has completed all statutory requirements for licensing, shall issue an Illinois Insurance Producer's License to the Respondent, Matthew Corbin; and
- 2) The Respondent, Matthew Corbin, shall pay within 35 days of the date of this Order, as costs of this proceeding, the sum of \$355.50 directly to the Illinois Department of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

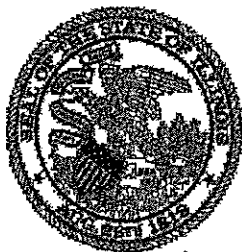
DEPARTMENT OF INSURANCE
of the State of Illinois

January 9, 2015

Date: _____



Andrew Boron
Director





IN THE MATTER OF THE
DENIAL OF LICENSING
AUTHORITY OF:

HEARING NO. 14-HR-0454

MATTHEW CORBIN

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATIONS OF THE
HEARING OFFICER**

Now comes Fred Moore, Hearing Officer, in the above captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Director of Insurance, Andrew Boron, (hereinafter the "Director").

FINDINGS OF FACT

PROCEDURAL DOCUMENTS AND THE EVIDENCE

- 1) On March 24, 2014, the Director issued a Letter of Denial denying an Illinois Producer's License to Matthew Corbin ("Respondent"). (Hearing Officer Exhibit #2-1).
- 2) On April 11, 2014, the Illinois Department of Insurance ("Department") received a Request for Hearing in this matter from the Respondent. (Hearing Officer Exhibit #2-2).
- 3) On May 5, 2014, the Director issued an Authority to Conduct Hearing appointing Helen Kim as Hearing Officer in this matter. (Hearing Officer Exhibit #1).
- 4) On May 5, 2014, the Director issued a Notice of Hearing in this matter setting a Hearing date and location of June 24, 2014 at 10:00 am in the Department's Offices in Chicago, IL. (Hearing Officer Exhibit #2).
- 5) Mary Jane Adkins filed a Notice of Appearance as Counsel for the Department. (Hearing Officer Exhibit #2).

- 6) On June 13, 2014, Michael J. Lowery filed a Notice of Appearance as Counsel for the Respondent. (Hearing Officer Exhibit #3).
- 7) On June 13, 2014, the Respondent sent a Motion for Continuance in this matter to the Department and to Ms. Kim. (Hearing Officer Exhibit #4).
- 8) On June 17, 2014, the Respondent sent a Motion for Continuance in this matter to the Department and Ms. Kim, requesting that the hearing be scheduled for a date during the first two weeks of September 2014. (Hearing Officer Exhibit #5).
- 9) On June 20, 2014, Ms. Kim issued an Order granting the Respondent's Motion for Continuance and setting a status call for June 24, 2014 at 10:00 a.m. for the purpose of setting a new Hearing date. (Hearing Officer Exhibit #6).
- 10) On June 25, 2014,¹ the Department sent an Agreed Motion to Continue Hearing requesting that the hearing be scheduled for September 9, 2014 at 12:00 p.m. (Hearing Officer Exhibit #7).
- 11) On June 25, 2014, Ms. Kim issued an Order scheduling the Hearing for September 9, 2014 at 12:00 p.m. at the Department's Chicago offices. (Hearing Officer Exhibit #8).
- 12) The Hearing in this matter was convened on September 9, 2014, at the Department's Offices in Chicago, Illinois. Those present included: Helen Kim, as Hearing Officer; Matthew Scott Corbin, the Respondent; Michael J. Lowery, on behalf of the Respondent; Mary Jane Adkins, on behalf of the Department; Mark Kaszubski, James Scott Wood, and Melinda Mosteller, witnesses for the Respondent. Also present but not testifying were Iris Canto, Berkely Cobb, Jason Cooper, Fred Moore, and Mehreen Rajabali, all observers from the Department. (R. 6-7).
- 13) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Insurance Producer's License and to determine whether the Director's Letter of Denial denying said license should stand.
- 14) The parties stipulated to the entry of the following exhibits into the Record, whereupon the Department rested its case (R. 10-12):
 - a) The Respondent's application² for an Illinois Insurance Producer's License with the National Insurance Producer Registry dated March 10, 2014, wherein he was asked, "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?" The Respondent answered "No." (Department Exhibit #1);

¹ On this document, "May" was incorrectly written in place of "June." (R. 8).

² The exhibit was entered with Social Security Numbers redacted. (R. 10).

- b) Certified copies of court records from the 18th Judicial Circuit Court, DuPage County Illinois, pertaining to Case No. 07-CF-917-01, *People of the State of Illinois v. Matthew Corbin*. It includes the indictment form, criminal sentence order, conditions of probation order, and report and order of discharge from probation in that case. (Department Group Exhibit #2):
 - i) The indictment, dated April 27, 2007, states that the Respondent committed an aggravated DUI on April 11, 2007, in that he “drove or was in actual physical control of a motor vehicle within the State of Illinois while under the influence of alcohol,” having previously committed a DUI two or more times, in violation of 625 ILCS 5/11-501(a)(2), (c-1)(2), and (d)(1)(A);
 - ii) The criminal sentence order, dated December 4, 2007, identifies the Respondent’s offense as a Class 2 felony and sentences him to 24 months of probation, 90 days in jail, DNA indexing, evaluation or counseling as deemed appropriate by the probation department, and \$1,645 in fees;
 - iii) The conditions of probation order, dated December 4, 2007, includes a directive to make a final report to the court on December 2, 2009; and
 - iv) The report and order of discharge from probation, dated December 2, 2009, discharging the Respondent from his probation on the probation officer’s report that the Respondent had complied with the conditions of probation.

15) In the Respondent’s case-in-chief, Mark Kaszubski testified on Direct Examination by Mr. Lowery as follows (R. 13-17):

- a) Mr. Kaszubski owns Ampol Insurance Agency, located in Bloomingdale, Illinois. (R. 13). He has been licensed in health, life, property, and casualty insurance for 17-18 years, since 1995 or 1996. (R. 13-14);
- b) Mr. Kaszubski met the Respondent around 1996 when he joined his first agency, where the Respondent was already a producer. The Respondent had a great reputation and a nice block of business. Mr. Kaszubski, approximately 27 years old at the time, looked up to him. Mr. Kaszubski has maintained contact with the Respondent since Mr. Kaszubski started his own agency around 1999. (R. 14);
- c) He heard about the Respondent’s aggravated DUI in 2007. Around 2012, he hired the Respondent as a telemarketer for his insurance agency as a way to help the Respondent break back into the insurance business. Mr. Kaszubski was “a little apprehensive at first,” but found the Respondent punctual, a hard worker, and beyond his expectations. (R. 15);

- d) Socially, he would go to lunch with the Respondent a couple of times per month and sometimes went golfing with the Respondent. (R. 15);
- e) He is aware that the Hearing is being conducted because the Respondent wants to get a producer's license after having lost it previously due to a DUI. The Respondent made a mistake when he committed the DUI. The Respondent "had some personal issues" at the time and was going through a divorce. Mr. Kaszubski considered the DUI when deciding whether to hire the Respondent in 2012, and thought, "You know what? He made a mistake one time." (R. 16). As he understands it, the Respondent has gone to [Alcoholics Anonymous] and does not drive anymore. Mr. Kaszubski always gives people a second chance, and it was a no-brainer to do so for the Respondent. The Respondent has been an "ideal" employee, and Mr. Kaszubski has no doubt that the Respondent should get his license. (R. 16-17); and
- f) The Respondent is "always very professional over the phone," honest, and trustworthy. The difference in the Respondent's character is "day and night" from the time of his DUI. It takes a lot of guts and character to admit a mistake and work hard to improve oneself. (R. 17).

16) On Cross-Examination by the Department, Mr. Kaszubski testified as follows (R. 18-20):

- a) The Respondent came to work for Mr. Kaszubski after Mr. Kaszubski asked a mutual friend, who was also an agent, for recommendations about people to hire as telemarketers. The mutual friend recommended the Respondent. Mr. Kaszubski did not want to say that being a telemarketer would be "beneath" the Respondent, but replied, "If [the Respondent]'s willing to do it, sure, I would jump at the chance, you know, to have someone like him." The mutual friend contacted the Respondent to have him meet with Mr. Kaszubski. It was a "no-brainer" to hire the Respondent. Mr. Kaszubski knew about the Respondent's felony conviction when he hired the Respondent. (R. 18);
- b) Mr. Kaszubski suggested to the Respondent that he apply for a producer's license in this most recent application. He did not want to push the Respondent to get the producer's license until the Respondent got a driver's license again. The vast majority of the work of an insurance agent involves driving to meet with clients. The Respondent obtained a driver's license in January 2014 that restricted him to driving during "9:00 to 5:00 to work." Once the Respondent had that license, Mr. Kaszubski suggested that he get the producer's license. (R. 19);
- c) If the Respondent were granted a producer's license, Mr. Kaszubski would definitely make the Respondent a producer. If the Respondent were not granted a producer's license, he would still have a job with Mr. Kaszubski. (R. 20); and

- d) Neither Mr. Kaszubski nor his insurance agency has been subject to any regulatory action by the Department. (R. 20).

17) On Direct Examination by Mr. Lowery, James Scott Wood testified as follows (R. 21-25):

- a) He has been an insurance broker for 43 years. (R. 21). He met the Respondent in the early 1990s when he became the sales manager of a firm in Rosemont. The Respondent had come back to visit some of the firm's sales people. Mr. Wood liked him immediately and they became friends. (R. 21-22);
- b) Mr. Wood did not work with the Respondent as a co-worker. Their relationship was basically social. However, the Respondent's knowledge of Mr. Wood's category of business is a factor in favor of Mr. Wood allowing Mr. Kaszubski to acquire the business that Mr. Wood currently owns. Without the Respondent, "that would not happen because we need somebody with his knowledge to make that fit." Mr. Wood is considering two other firms for the acquisition. (R. 22);
- c) Prior to the Hearing, Mr. Wood was aware of the Respondent's loss of his driver's and producer's licenses, as well as the Respondent's aggravated DUI conviction. He reconnected with the Respondent at a tavern in Bloomingdale where the Respondent had had "an interest." In talking to people at various agencies, he found that the Respondent had "gone through a rough patch." (R. 23);
- d) Mr. Wood is "all about second chances." The Respondent has done everything in his power to turn his life around, and he has done a "stellar job" in working back to become a "productive and successful insurance broker." The Respondent "disenfranchised himself" from the tavern to distance himself from alcohol, and otherwise gave serious consideration to the "road he had taken earlier." (R. 24). His divorce was tough, but he got both feet back on the ground. (R. 24-25); and
- e) The Respondent is "a terrific guy" who is honest and trustworthy. (R. 25).

18) On Examination by Helen Kim, Mr. Wood testified as follows (R. 25-26):

- a) He has known the Respondent for 23 years. He and Mr. Kaszubski were aligned with the same insurance firm between 2000 and 2005. (R. 25); and
- b) He did not have business relations with the Respondent while the Respondent had a [producer's] license. He had more contact with the Respondent in a business setting when the Respondent started working for Mr. Kaszubski because Mr. Wood and Mr. Kaszubski do some business together. (R. 26).

19) On Direct Examination by Mr. Lowery, Melinda Mosteller testified as follows (R. 26-31):

- a) She is a stay-at-home mother who has had four children. She has lived with the Respondent continuously for the last three of the four years that she has known

the Respondent. The Respondent is her boyfriend. (R. 27). Only her daughters still live with her and the Respondent. Her four children range in age from six to twenty-three years old. (R. 28);

- b) She knows that the Hearing pertains to the denial of the Respondent's application for an insurance license on the ground that he had an aggravated DUI conviction from 2007. She has had the opportunity to observe the Respondent closely in social situations over the last 3-4 years. (R. 28);
- c) When she met the Respondent through her cousin, he had hit rock bottom. The Department should issue a producer's license to the Respondent, though, because he has completely turned his life around and he deserves a second chance. (R. 29);
- d) Since the Respondent moved in with Ms. Mosteller in 2011, he has been in social situations with her where alcohol was present. She has never seen him take a drink for as long as she has known him. (R. 29). The Respondent has never had a problem going to work. He arrives at work "two minutes before he is supposed to be" there. (R. 30); and
- e) The Respondent is devoted and generally a great guy. He tucks in Ms. Mosteller's six and eight year-old daughters, makes dinner for them, reads and plays with them, and cares for them when Ms. Mosteller has to do her "running around." He also contributes to the financial support of Ms. Mosteller and her children. Ms. Mosteller trusts the Respondent with her family. He is now worthy of a producer's license. (R. 30-31).

20) On Direct Examination by Mr. Lowery, the Respondent testified as follows (R. 32-58):

- a) He has been a telemarketer at Ampol Insurance Agency for two and a half years. Previously, he was a telemarketer for an electrical contracting company from 2008 to March 2012. (R. 32-33). At Ampol, he receives leads from Mr. Kaszubski and calls people to see whether they are interested in getting quotes for renewing their insurance or changing from another agency to Ampol. If a person is interested, he refers their case to Mr. Kaszubski or a different sales representative at Ampol. (R. 48);
- b) After he graduated from college in May 1986, he took an insurance job in June 1986 in Chicago and got his producer's license that year. From 1986 to 1988, he worked for National Hospital and Health Care. In 1988, he and a friend started their own business and eventually obtained a business license from the Department. (R. 33). The business lasted until the Respondent's license was revoked in 2008. (R. 33-34). He lost that license because his 2007 aggravated DUI was a felony. (R. 34). The Department had never previously subjected him to disciplinary action since he first obtained his license in 1986. (R. 48);

- c) Within 30 days of his 2007 conviction or arrest,³ his driver's license was revoked. As of January 2014, he has regained a restricted driving permit to go to work and AA meetings. (R. 34);
- d) Respondent Group Exhibit #5 consists of the criminal sentence order and the report and order of discharge from probation pertaining to his 2007 conviction. (R. 35; Respondent Group Exhibit #5). He was sentenced to 90 days' incarceration and two years' probation. Conditions of probation included not violating the law, whether or not related to driving, and abstaining from alcohol and drugs. He was successfully terminated from probation. (R. 35-36; Respondent Group Exhibit #5);
- e) During the time of his probation, professionals told him that he had an alcohol dependency that was the root cause of his DUI. (R. 36-37). He was evaluated during a class three nights per week for a few hours with 10-15 other people who had similar alcohol problems. (R. 37);
- f) Respondent Group Exhibit #3⁴ contains, on its first page, an evaluation stating that even though he was at "a high risk for alcohol," he was progressing very well with maintaining sobriety and with changes in his life. (R. 37). They stated that, as long as the Respondent was able to stay sober, they would favorably recommend that the State allow him to have a driver's license. This was in 2009. (R. 38). The second page is a subsequent evaluation dated August 7, 2013 by Liberty Braun from a facility in Naperville. (R. 38). This evaluation was based on a lengthy examination of the Respondent's background from his childhood up through the time of his alcoholism. His significant other was also involved in the evaluation. (R. 38-39). This 2013 evaluation stated that the Respondent was doing what he was supposed to be doing, that he had not regressed, and that he was not a danger. The evaluation pertained to whether he should be allowed to drive. (R. 39);
 - i) The first page of the exhibit is a Discharge Summary issued by Tricon Counseling Centers, Inc. dated June 10, 2009, when the Respondent completed treatment. It states that the Respondent was admitted to treatment on March 30, 2008. It states that the Respondent remained abstinent through treatment, was very open during group sessions, handled his divorce and employment issues appropriately, attended

³ The Respondent was asked what happened to his driver's license "as a result of your conviction and/or arrest in 2007." (R. 34). His reply did not specify which of those two events determined his stated timeframe of "within 30 days."

⁴ The transcript shows Mr. Lowery incorrectly identifying the exhibit as "Respondent's Group Exhibit No. 2." (R. 37).

Alcoholics Anonymous meetings regularly, and had an excellent prognosis. (Respondent Group Exhibit #3);

- ii) The second page of the exhibit, dated August 7, 2013, is issued on letterhead from “the family connection”⁵ and purports to be a “Treatment Needs Assessment and Waiver of Further Treatment for Matthew S. Corbin.” It lists an Illinois Driver’s License number next to the Respondent’s name, and is addressed to the presiding hearing officer for the Illinois Secretary of State. The document, signed by Liberty E. Braun, states that Ms. Braun conducted an evaluation and current treatment needs assessment of the Respondent on August 7, 2013, wherein she reviewed “his drinking history, treatment history and his efforts to rehabilitate himself.” It states that the Respondent has been sober since April 12, 2007, has developed a sobriety support system within AA, has changed his circle of friends, has learned to socialize and manage stress through non-chemical means, has met the goals and objectives of his alcohol dependency treatment, and has no further need for primary care treatment “in regards to his past four DUI arrests.” It states that his prognosis for continued sobriety is very good. (Respondent Group Exhibit #3);
- g) Upon being shown Department Exhibit #1, the Respondent read Question No. 1 aloud as follows: “Have you ever been convicted of a crime, have judgment withheld or deferred,⁶ or are you currently charged with committing a crime?” (R. 39). He answered, “No,” to that question. (R. 40; Department Exhibit #1). This answer was just a mistake. The last thing he would do would be to hide his crime, especially since that crime was the reason he had lost his driver’s and producer’s licenses. He did not proofread his answer. He supplemented his application with his conviction report. He said in a phone call with the State that his answer was an error. (R. 40);
- h) Respondent Group Exhibit #1 is a follow-up to his producer’s license application. (R. 41). He had a conversation with Kellie Hickman in which she told him that, based on the information he had given the Department, his answer to the first question on the application did not make sense. He replied that he absolutely had made an error on the application and that the attachments he had sent with it bore that out. (R. 42). The Respondent’s conviction report was attached to the application. (R. 43). Ms. Hickman was the investigator handling his application. (R. 43);

⁵ Lowercase letters in the original document.

⁶ The question actually is phrased “had a judgment withheld or deferred.” (Department Exhibit #1).

- i) Ms. Hickman's e-mail to the Respondent, dated March 17, 2014, states, "Hello Matthew: In reviewing your application for a Producer's License, I noticed you answered question number 1 of the background information "No", however you provided court documents. Please explain why you answered "No." (Respondent Group Exhibit #1);
- ii) In an e-mail on the same date, the Respondent replied to Ms. Hickman, "I apologize the question should have been answered Yes it was a mistake. As we discussed the other documentation will support that question." (Respondent Group Exhibit #1);
- i) He was diagnosed as alcohol dependent in 2007. (R. 44). That was part of what led to the loss of his driver's and insurance producer's licenses. (R. 44-45). Currently, he is allowed to drive to work during business hours and to AA meetings three days per week. (R. 45);
- j) Respondent Exhibit #2 is the Respondent's "driver's abstract." (R. 45);
 - i) The document, issued by the Illinois Secretary of State, is dated August 25, 2014 and contains the same driver's license number as on the second page of Respondent Exhibit #3. (Respondent Exhibit #2);
 - ii) The document shows that the Respondent was arrested on March 28, 1992 and convicted on June 3, 1992 for a DUI. He had his license summarily suspended for six months on May 13, 1992 for failing an alcohol/drug test or refusing to submit to it. (Respondent Exhibit #2);
 - iii) He was arrested on January 13, 1994 and convicted on December 5, 1994 for another DUI. His license was suspended again for about four and a half years starting February 28, 1994 for failing an alcohol/drug test or refusing to submit to it. The suspension was converted into a revocation on January 7, 1995, but had nearly the same termination date. He obtained a restricted driving permit on June 2, 1997 with an expiration date of June 2, 1998. (Respondent Exhibit #2);
 - iv) He was arrested on April 11, 2007 and convicted on December 4, 2007 for a violation of DUI. His license was revoked on January 9, 2008 with an eligibility date of January 9, 2013. He obtained a restricted driving permit on January 8, 2014 with an expiration date of January 8, 2015. (Respondent Exhibit #2);

- k) Respondent Group Exhibit #4 consists of copies of the Respondent's restricted driving permit issued by the State of Illinois on January 8, 2014, which is valid for one year. (R. 45-46). One page allows him to drive for his AA meetings three days per week between 8:00 p.m. and 9:30 p.m. The other page allows him to drive for work at Ampol Insurance Agency between 8:00 a.m. and 6:00 p.m. Monday-Friday and between 9:00 a.m. and 5:00 p.m. on Saturdays. (R. 46; Respondent Group Exhibit #4);
- l) He has had no problems following the restrictions on the driving permit and has not been contacted by the Secretary of State about the permit since it was issued. He went through a hearing process to obtain the permit. (R. 46-47);
- m) Since his arrest in 2007, a lot has changed. At the time, he was drinking heavily, which he had blamed on a messy divorce he was going through. He did not respect himself. After his arrest and incarceration, though, he realized that he was just in denial about his drinking problem. He had lost everything because of it. (R. 48-49);
- n) AA has helped him a great deal. Before AA, he did not have a support group and he could resume drinking even after periods of abstinence. Since AA, he has been continuously sober. He takes life one day at a time. (R. 49-50);
- o) Respondent Exhibit #6 is a letter from his sponsor at AA, Mark Swenson, who had hoped to attend the Hearing but had to be out of town. (R. 50-51). The letter is dated September 8, 2014 and states that Mr. Swenson has known the Respondent for over six years since they met in AA. It states that they meet at least twice a week and see each other socially, too. It further states that the Respondent has been active in AA and has stayed sober. Mr. Swenson is not well versed in the insurance business, but he is sure that the Respondent will be able to maintain his integrity and sobriety. He closes by writing that he would have spoken in person on the Respondent's behalf but has to work out of town September 9-11. (Respondent Exhibit #6);
- p) An AA sponsor is someone who is "there" for another AA participant. When an AA participant feels tempted to drink, the sponsor is someone to call and rely upon. (R. 51);
- q) He has contact with Mr. Swanson three or four times per week, mainly at AA meetings, which the Respondent attends an average of twice per week. (R. 51-52). The AA meetings take place at one of the churches that he attends for religious services. (R. 52);
- r) Respondent Exhibit #7 is a letter from Steve Stall, Vice President of Euclid Managers. (R. 54). Mr. Stall delivered the letter to the [Ampol] office the day before the Hearing. (R. 55);

- i) The letter, dated September 5, 2014, states that Mr. Stall has known the Respondent for about 15 years and that they had a good working relationship while the Respondent still had his [producer's] license. The Respondent informed Mr. Stall, who was aware of the DUI, of the loss of his license and book of business. The Respondent also informed Mr. Stall that the Respondent was seeking help for alcoholism. They had irregular contact for a while and then resumed regular contact when the Respondent started working at Ampol. The Respondent has been sober for seven years; Mr. Stall has observed the Respondent in social and professional situations during that time and has not seen any indication that the Respondent wanted to drink. Mr. Stall had intended to speak in person on the Respondent's behalf, but a "corporate obligation" prevents him from doing so. (Respondent Exhibit #7);
 - s) The Respondent used to place business through Euclid when he previously had a producer's license; Ampol still places business through Euclid. The Respondent has known Mr. Stall for around 15 years since Mr. Stall was "just getting into the business." Their relationship is mostly business but also social. (R. 54). Currently, Mr. Stall comes to the Ampol office about once a week. Mr. Stall knew and socialized with him when he was drinking but also knows now that the Respondent does not drink. (R. 55); and
 - t) If the Department issues the Respondent a producer's license, the Respondent plans to work at Ampol. Seven years ago, he was not ready for the public trust. Changes since then have been positive, and his support group has been very helpful. He is more humble and less ego-driven than he had been. (R. 56-57).
- 21) Mr. Lowery and the Department clarified that they had stipulated to Respondent Exhibits #1-5. Respondent Exhibits #6 and 7 were entered into the Record without stipulation. (R. 57-58).
- 22) On Cross-Examination by the Department, the Respondent testified as follows (R. 58-67):
- a) He was licensed from 1986 to 2008. When it came time to renew in 2008, he admitted that he had been convicted of a felony, which caused the Department to revoke his license. (R. 58-59). He requested a hearing, which he attended without counsel. He underestimated the severity of the situation at that time. (R. 59);
 - b) He has not tried to reapply for a license between the time he lost his license and this most recent application. He does not recall whether he submitted a copy of his 2008 Order of Revocation with this most recent application. (R. 59);
 - c) From 1988 to 2008, he owned a licensed business called Corporate Health Consulting. Because he was the only licensed producer there in 2008, when he

lost his individual license, his business could not operate, either. There had never been any issues with the business' own licensing. To his knowledge, no complaints have ever been filed with the Department against the Respondent or Corporate Health Consulting. (R. 60);

- d) The 2007 DUI occurred after work when the Respondent had met with his golf group for pizza and beer and then went to a bar with them. He drank heavily at the bar. When he was arrested for the DUI later that evening, he was alone. He did not get into an accident and no one was hurt. (R. 60-61);
- e) He had a DUI in 1983 while he was in college. After a party, he went to a Beach Boys concert. Driving home from the concert, he sideswiped a car and "stopped like you're supposed to." His alcohol level tested at 0.12 on a breathalyzer. No one was hurt. He did not seek treatment after that incident. (R. 61-62);
- f) In 1992, he had a DUI when he drove a friend home because the friend had drunk too much to drive himself. They were pulled over. No one was hurt. (R. 62). The Respondent no longer sees that individual, who has died since then. (R. 63);
- g) In 1994, he had a DUI after he did shots of Goldschlager at an insurance function. He rear-ended another car, but no one got hurt. He was alone in his own vehicle. The State required that he seek treatment, which he completed. (R. 63). The treatment involved 60 hours of outpatient Alcoholics Anonymous meetings. (R. 63-64);
- h) He had no alcohol-related offenses between 1994 and 2007. Besides these DUIs, he has not been involved in any other criminal activity. He has not been arrested at any other time except as a juvenile. (R. 64);
- i) He no longer interacts with the majority of the friends he had before the 2007 DUI. He still interacts with some friends who did not drink. (R. 64);
- j) His last drink was in December 2007. He did not start treatment for his alcohol dependency until he was incarcerated on December 28, 2007. He served 45 days of his 90-day sentence without any issues or disciplinary actions. (R. 64-65);
- k) He still attends AA meetings and works at Ampol. (R. 65);
- l) He volunteers at his church's weekly bingo nights, but does not have much time for community service otherwise. (R. 66);
- m) He has three children of his own. His 25 year-old daughter lives with her mother. He cannot afford to pay for his elder son's tuition at Arizona State University, but did try to help the son financially when he was attending College of DuPage. His youngest son is at the University of Houston. (R. 66); and

- n) The Respondent was required to pay child support as a result of his divorce, and he did so. (R. 67).

23) On Examination by Helen Kim, the Respondent testified as follows (R. 67-69):

- a) He was released from DuPage County Jail after 45 days for good behavior. (R. 67);
- b) He attends AA meetings twice a week on average. His attendance is not required. (R. 67);
- c) He is scheduled to have a hearing relating to his restricted driving permit on November 6, 2014, after which “they” can recommend to continue with the BAID in his car. A BAID is an alcohol ignition device which prevents the driver from starting the car if he has alcohol on his breath. The Respondent has to breathe into the device before starting the ignition. The BAID is a condition of the restricted driving permit. (R. 68);
- d) He has had no convictions or moving violations or accidents [while on the restricted driving permit]. (R. 68). The Respondent’s attorney told him that the Respondent likely could get a full reinstatement of his driver’s license. (R. 69); and
- e) He does not recall whether the Order of Revocation of his producer’s license from 2008 assessed the hearing costs against him, but he does not believe that it did. (R. 69).

24) Midwest Litigation Services recorded the testimony in this proceeding and charged the Department \$355.50 for the court reporter’s attendance and one copy of the transcript of the proceeding. (Hearing Officer Exhibit #9).

25) On December 29, 2014, the Director issued an Order of Substitution removing Helen Kim as Hearing Officer in this matter and substituting and appointing Fred Moore. (Hearing Officer Exhibit #10).

DISCUSSION AND ADDITIONAL FINDINGS

The purpose of this proceeding was to determine the Respondent’s eligibility to hold an Illinois Insurance Producer’s License and to determine whether the Director’s Letter of Denial denying said license should stand.

In its Letter of Denial and Notice of Hearing in this matter, the Department alleges that the Respondent has been convicted of a felony. The Department cites as grounds for denial Section 5/500-70(a)(6) of the Illinois Insurance Code (“Code”).

Section 500-70 of the Code provides, in pertinent part:

License denial, nonrenewal or revocation: (a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(6) having been convicted of a felony.

The evidence in this case indicates that, on December 4, 2007, the Respondent was convicted of one count of aggravated DUI, a Class 2 Felony, in Case No. 07-CF-917-01 in DuPage County, Illinois. (Department Group Exhibit #2; Respondent Group Exhibit #5). Therefore, the Director was within his statutory authority in denying the Respondent the issuance of an Illinois Insurance Producer's License.

However, when determining whether a license should be granted or denied for an applicant who has been convicted of a felony, 50 Ill. Adm. Code 2403, Producer Felony Review, provides the following standards⁷ that should be considered by the Director when making his final decision:

- a) Nature and Severity of the Criminal Activity
- b) Time Elapsed Since the Prior Criminal Conduct.
- c) Absence of Additional Criminal Conduct Since the Reported Felony.
- d) Multiple Offenses or Pattern of Criminal Conduct.
- e) Restitution.
- f) Proper Disclosure.
- g) Successful Completion of Sentence and Probationary Period.
- h) Rehabilitation.
- i) Nature of Work Performed by the Applicant or Producer.
- j) Any Other Factors or Circumstances Deemed Relevant.

⁷ In weighing the standards, however, they need not be given equal weight.

The evidence presented at the Hearing regarding these standards is as follows:

A. Nature and Severity of the Criminal Activity

“Violent criminals or sex offenders may be denied producer license privileges, as well as those convicted of crimes which are insurance related and/or involve untrustworthiness;”

The Respondent was convicted of one count of aggravated DUI as a Class 2 Felony under 625 ILCS 5/11-501(a) and 625 ILCS 5/11-501(d)(1)(A). (Department Group Exhibit #2; Respondent Group Exhibit #5). It is without question that drunk driving puts people’s lives at risk, and repeatedly driving drunk over a course of twenty-plus years only increase the chance of injury. That said, with respect to this factor, the Respondent’s crime was not violent or sexual in nature, nor did it relate to insurance. Committing a DUI may indicate that a person should not be trusted with the responsibility of a vehicle, but it does not indicate untrustworthiness in the sense of a disposition toward deception or toward taking advantage of people. Therefore, this factor is neutral towards a rehabilitation determination.

B. Time Elapsed Since the Prior Criminal Conduct

“The greater the time period since the criminal conduct of the applicant or producer, the more leniency that is appropriate. When making this determination, the duration since the criminal activity should be proportionate to the severity of the criminal conduct;”

It has been seven and a half years since the Respondent’s arrest in 2007. Given the nature of the crime described above, this factor favors leniency toward the Respondent.

C. Additional Criminal Conduct Since Felony

“Continued criminal conduct of a lesser or greater nature, by the applicant or producer, should not be tolerated;”

No evidence was presented at the hearing of any additional criminal conduct since the felony. The Respondent testified that he had not committed any crimes other than his DUIs, of which the 2007 incident was the last one. (See R. 64). Therefore, this factor is favorable toward a rehabilitation determination.

D. Multiple Offenses or Pattern of Criminal Conduct

“Those applicants and producers who engaged in repeated criminal conduct are a greater risk to the public;”

The Respondent has been convicted of a total of four DUIs in 1983, 1992, 1994, and 2007 (see R. 60-64), which reflects a pattern of criminal conduct over the course of twenty-four years. This factor is very unfavorable toward a rehabilitation determination.

E. Restitution

“Payment to the victim of the felony by the applicant or producer is necessary to both satisfy the court order and to demonstrate penitence;”

There was no direct testimony at the Hearing as to whether the Respondent was required to pay restitution. The criminal sentence order does not mention restitution, though. (Department Group Exhibit #2; Respondent Group Exhibit #5). No one was hurt in the 2007 DUI offense, as there was no accident. (See R. 60-61). This factor is neutral with respect to rehabilitation.

F. Proper Disclosure

“Failure of the applicant or producer to fully cooperate or properly report the criminal activity to the Department does not reflect favorably on the applicant's character;”

The Respondent's disclosure of his felony initially was conflicting, but ultimately reflected honesty with the Department. The Respondent marked “No” on the question asking whether he had been convicted of a crime. (Department Exhibit #1). At the same time, the Respondent attached to his application a criminal sentence order that clearly showed he had been convicted of a felony in 2007. (Respondent Group Exhibit #1). When Kellie Hickman e-mailed the Respondent to inquire about this discrepancy, the Respondent stated that he had just made a mistake on the application and should have marked “Yes,” referring to the documentation that supported that response. (Respondent Group Exhibit #1). The Respondent reiterated at the Hearing that his “No” response on the application was just a mistake and that the attachments to the application bore that out. (See R. 42). The Hearing Officer finds the Respondent's testimony credible. Based on all of the available evidence about the extent of the Respondent's disclosure, it is extremely unlikely that he was trying to hide anything about his conviction when he marked “No” on the application. Therefore, this factor is favorable toward a rehabilitation determination.

G. Successful Completion of Sentence and Probationary Period

“The applicant's or producer's debt to society must be fully satisfied before he or she is granted any further privileges;”

The Report and Order of Discharge from Probation shows that the Respondent's probation was successfully terminated on December 2, 2009, two years after the conviction date. (Department Group Exhibit #2; Respondent Group Exhibit #5). The Respondent was sentenced to 90 days in jail, (Department Group Exhibit #2; Respondent Group Exhibit #5), which he completed satisfactorily. (See R. 67). This factor is somewhat favorable toward a rehabilitation determination.

H. Rehabilitation

“Post-conviction community service or charitable activity by the applicant or producer may serve as evidence of rehabilitation;”

The Respondent testified that he volunteers at his church’s weekly bingo nights but does not otherwise have much time for community service. (See R. 66). This factor is neutral at best toward a rehabilitation determination.

I. Nature of Work Performed by Applicant

“There is less risk when the work to be performed does not involve money transactions or direct contact with the public;”

The Respondent’s current employer, Mr. Kaszubski, testified that, if the Respondent were granted a producer’s license, Mr. Kaszubski would definitely hire the Respondent as a producer. (See R. 20). Neither he nor the Respondent directly described what the Respondent would do in that role. In the Respondent’s description of his current telemarketing job, however, he implied that Mr. Kaszubski and his sales representatives sell to consumers. (See R. 48). Additionally, Mr. Kaszubski testified that he wanted the Respondent to have a driver’s license to be able to meet with clients once the Respondent obtained a producer’s license. (See R. 19). Accordingly, the Respondent likely would have direct contact with the general public, which theoretically increases the risk involved in granting him a license. However, Mr. Kaszubski testified that the Respondent has been “ideal” as a telemarketer since 2012 who is always professional on the phone, honest, and trustworthy. (See R. 15, 17). Additionally, the Respondent testified that his previous producer’s license and his business license had never been subject to discipline except in relation to his 2007 DUI. (See R. 48, 60). As stated earlier, the Respondent has no convictions for violent or sexual crimes, or any crime of moral turpitude. He has maintained sobriety continuously for seven years, since December 2007, (see R. 64-65; Respondent Exhibit #7), and has supported his sobriety by attending regular AA meetings for the last six years. (See Respondent Exhibit #6). Therefore, the Hearing Officer does not find that the Respondent’s contact with the public would increase the risk presented in granting him a producer’s license.

J. Any Other Factors or Circumstances Deemed Relevant

“Letters of recommendation addressed to the Director, and attesting to the character and reputation of the applicant or producer, may be considered by the Director.”

The Respondent entered two letters of recommendation into the Record, both of which spoke highly of the Respondent’s integrity and affirmed his sobriety. (Respondent Exhibits #6 and 7). One letter was from his AA Sponsor for the last six years, (Respondent Exhibit #6), who is the first person whom the Respondent would call if he ever felt an urge to drink. (See R. 51). The Respondent has contact with his Sponsor three to four times per week, including at AA meetings twice per week. (See R. 51-52). Because of the length of their relationship, their frequency of contact both at and outside of AA meetings, and the confidential nature of the AA

sponsor's role for the Respondent, the Sponsor is in a very strong position to evaluate the Respondent's ability to maintain sobriety. However, in the letter, his affirmation of the Respondent's character is extremely brief and general with almost no details or examples to paint a picture of the Respondent's commitment to sobriety or other positive character traits. Moreover, the impact of the Sponsor's letter is further diminished by the fact that he was unavailable to testify.

Similarly, the recommendation letter from the Respondent's business colleague at Euclid Managers (Respondent Exhibit #7) cannot be afforded much weight because of the colleague's failure to testify. His letter also speaks mostly in general terms, though he at least alleges that the Respondent has abstained from alcohol while in the colleague's presence during the last seven years. (Respondent Exhibit #7).

In *Medley v. Department of Insurance*, the Court of Appeals stated that to show sufficient rehabilitation from a felony conviction to warrant the public trust, "the type of rehabilitation required here is such that the licensee can be trusted to engage in selling and securing of insurance policies which may be intricate and may involve insureds or prospective insureds who lack sophistication in such matters." *Medley v. Dep't of Ins.*, 223 Ill. App. 3d 813, 819 (4th Dist. 1992). The Court further stated that the Respondent should appear contrite, accept responsibility for his or her actions, and indicate ways in which he or she intends to change. *Id.* at 816.

At the Hearing, the Respondent appeared contrite. Given that the Respondent's only criminal offenses have been DUIs, the main aspect of his character that needed to change was his inability to stay sober when responsibility demanded it. The Respondent has been sober since December 2007 (*see* R. 64-65) and has attended AA meetings twice per week for over six years. (*See* R. 52; Respondent Exhibit #6). He no longer associates with most of his friends from before the 2007 DUI, though he has kept in contact with some who did not drink. (*See* R. 64). Mr. Wood also testified that the Respondent has "disenfranchised" himself from a tavern in which he had owned an interest in order to distance himself from alcohol. (*See* R. 24). The Respondent's prognosis for remaining sober was already "excellent" when Tricon discharged him from its treatment program on June 10, 2009. (Respondent Group Exhibit #3). Another treatment center, "the family connection," provided a clinical opinion on August 7, 2013 that further primary care treatment for the Respondent would be pointless, as he had maintained sobriety since 2007 and had developed a strong support system, which warranted a "very good" prognosis. (Respondent Group Exhibit #3). The Respondent admitted at the Hearing that, until his 2007 DUI, he had been in denial about his drinking problem, which he had blamed at the time on his messy divorce. (*See* R. 49). He testified that, since the felony, he has changed himself from an ego-driven person to one with more humility. (*See* R. 56-57). Mr. Kaszubski testified that the change in the Respondent since the 2007 offense has been "day and night." (*See* R. 17). Ms. Mosteller, the Respondent's girlfriend, testified that she has never seen the Respondent drink alcohol in the four years that she has known him, and that she trusts him to care for her six and eight year-old daughters when she is not around. (*See* R. 29-31). That said, her testimony cannot be afforded significant weight on account of her personal bias for the Respondent. As stated earlier, the Respondent's AA sponsor has attested to the Respondent's continuous sobriety, as well.

(Respondent Exhibit #6). Based on all of this evidence, the Hearing Officer believes that the Respondent has, in fact, realized the significance of his drinking problem since the 2007 DUI, taken responsibility for counteracting it comprehensively and persistently, and successfully changed his habits and circumstances enough to have a low risk of relapse now seven years later.

The Record otherwise reflects favorably on Respondent's trustworthiness for selling insurance policies to the public. The Respondent's DUI offenses were not violent, sexual, insurance-related, or indicative of deceptiveness or manipulation, and his last offense happened more than seven years ago. Although his four DUIs constitute a pattern of criminal activity, the Respondent has amply demonstrated in the last seven years, as indicated above, that he no longer poses a substantial risk of losing his sobriety and driving under the influence of alcohol. The Respondent has committed no criminal offenses besides the DUIs. (*See* R. 64). He was not required to pay restitution, but he successfully completed all terms of his sentence for the 2007 offense. (*See* R. 67; Department Group Exhibit #2; Respondent Group Exhibit #5). He candidly disclosed his felony to the Department during his most recent application for a producer's license. (Respondent Group Exhibit #1). The Respondent never faced professional disciplinary action except for the loss of his producer's license resulting from his 2007 DUI, which indicates competence at the work of being a producer. (*See* R. 48). Finally, three insurance producers with experience in their field ranging from 18 years (Mr. Kaszubski, R. 14) to 43 years (Mr. Wood, R. 21), who have known the Respondent for 15-20 years (*see* R. 14 (Kaszubski), R. 21-22 (Wood), Respondent Exhibit #7 (Stall)), confidently assert that the Respondent can be entrusted with an insurance producer's license again. His current employer had looked up to the Respondent as a producer after they first met 18 years ago, (*see* R. 14), and today he considers the Respondent an honest, ideal employee who handles clients very professionally. (*See* R. 15, 17). Even knowing the Respondent's criminal history, Mr. Kaszubski was the one who encouraged the Respondent to try to obtain a producer's license again. (*See* R. 18-19). Based on these factors, as well as the Respondent's demonstrable and lengthily sustained commitment to sobriety, the Hearing Officer deems that the Respondent would be competent, trustworthy, and responsible as a producer.

Based upon the totality of evidence presented at the Hearing, and considering the standards described at 50 Ill. Adm. Code 2403.30 to determine rehabilitation, the Hearing Officer finds that the Respondent has demonstrated that he is sufficiently rehabilitated to warrant the public trust. The Hearing Officer further finds that pursuant to Section 408 of the Insurance Code and 50 Ill. Adm. Code 2402.270, the Director may assess the costs of this proceeding against the Respondent. Midwest Litigation Services recorded the testimony in this matter and charged the Department \$355.50 for the transcript and the court reporter's attendance. (Hearing Officer Exhibit #9)

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and the entire Record in this matter, the Hearing Officer offers the following Conclusions of Law to the Director of Insurance:

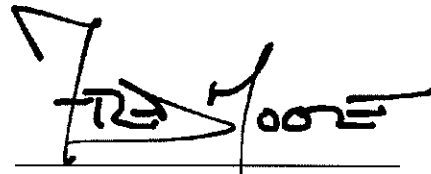
- 1) Fred Moore was duly appointed Hearing Officer in this matter pursuant to Section 5/402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Director of Insurance has jurisdiction over the subject matter and the parties in this proceeding pursuant to Sections 5/401, 5/402, 5/403, and 5/500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403 and 5/500-70).
- 3) That the Letter of Denial previously issued in this matter was within the Director's statutory authority pursuant to Section 5/500-70 of the Illinois Insurance Code (215 ILCS 5/500-70).

RECOMMENDATIONS

Based upon the above Findings of Fact, Conclusions of Law and the entire Record in this matter, the Hearing Officer offers the following Recommendations to the Director of Insurance:

- 1) That the March 24, 2014, Letter of Denial denying an Illinois Insurance Producer's License to the Respondent, Matthew Corbin, be rescinded and that a license be issued to the same;
- 2) That the Respondent, Matthew Corbin, be assessed the costs of this proceeding in the amount of \$355.50.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fred Moore", written over a horizontal line.

FRED MOORE
Hearing Officer

Date: December 30, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 1-13-15, I caused a true and correct copy of the foregoing **Order** to be served upon the following by the designated means:

Matthew Corbin

Respondent

16 Brittany Lane

Glendale Heights, IL 60139

☒ first class mail

☒ certified mail 7210

☐ hand delivery

☐ electronic mail

☐ via facsimile

Michael Lowery

Attorney for Respondent

177 N. State Street, 3rd Floor

Chicago, IL 60601

☒ first class mail

☒ certified mail 7227

☐ hand delivery

☐ electronic mail

☐ via facsimile

Mary Jane Adkins

Attorney for the Department

Illinois Department of Insurance

122 S. Michigan Avenue, 19th Floor

Chicago, IL 60603

☐ first class mail

☐ certified mail

☐ hand delivery

☒ electronic mail

☐ via facsimile

Fred Moore

Hearing Officer

Illinois Department of Insurance

122 S. Michigan Avenue, 19th Floor

Chicago, IL 60603

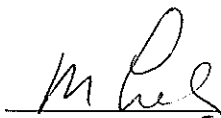
☐ first class mail

☐ certified mail

☐ hand delivery

☒ electronic mail

☐ via facsimile



MARY ANN LELYS

Administrative Assistant

Illinois Department of Insurance